

109TH CONGRESS  
1ST SESSION

# H. R. 3455

To amend the Real Estate Settlement Procedures Act of 1974 to provide for homeowners to recover treble damages from mortgage escrow servicers for failures by such servicers to make timely payments from escrow accounts for homeowners insurance, taxes, or other charges, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 27, 2005

Mr. ANDREWS introduced the following bill; which was referred to the  
Committee on Financial Services

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## A BILL

To amend the Real Estate Settlement Procedures Act of 1974 to provide for homeowners to recover treble damages from mortgage escrow servicers for failures by such servicers to make timely payments from escrow accounts for homeowners insurance, taxes, or other charges, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Homeowners’ Escrow  
5       Payments Assurance Act”.

1 **SEC. 2. TREBLE DAMAGES FOR FAILURE TO MAKE PAY-**  
 2 **MENTS FROM ESCROW ACCOUNT.**

3 Section 6(f) of the Real Estate Settlement Proce-  
 4 dures Act of 1974 (12 U.S.C. 2605(f)) is amended—

5 (1) in paragraph (1), by striking subparagraph  
 6 (A) and inserting the following new subparagraph:

7 “(A)(i) except as provided in clause (ii),  
 8 any actual damages to the borrower as a result  
 9 of the failure; or

10 “(ii) in the case of an action for a failure  
 11 to comply with the requirements of subsection  
 12 (g), 3 times any such actual damages; and”;  
 13 and

14 (2) in paragraph (2), by striking subparagraph  
 15 (A) and inserting the following new subparagraph:

16 “(A)(i) except as provided in clause (ii),  
 17 any actual damages to each of the borrowers in  
 18 the class as a result of the failure; or

19 “(ii) in the case of an action for a failure  
 20 to comply with the requirements of subsection  
 21 (g), 3 times any such actual damages; and”.

22 **SEC. 3. FINE FOR FAILURE TO MAKE PAYMENTS FROM ES-**  
 23 **CROW ACCOUNT RESULTING IN LAPSE IN IN-**  
 24 **SURANCE COVERAGE.**

25 Section 6 of the Real Estate Settlement Procedures  
 26 Act of 1974 (12 U.S.C. 2605) is amended—

1           (1) by redesignating subsections (h) through (j)  
2           as subsections (i) through (k), respectively; and

3           (2) by inserting after subsection (g) the fol-  
4           lowing new subsection:

5           “(h) FINE FOR FAILURE TO MAKE PAYMENTS FROM  
6           ESCROW ACCOUNT RESULTING IN LAPSE IN INSURANCE  
7           COVERAGE.—

8           “(1) IN GENERAL.—If the servicer of a feder-  
9           ally related mortgage loan collects payments from  
10          the borrower for deposit into an escrow account for  
11          the purpose of assuring payment of insurance pre-  
12          miums and a failure by the servicer to make timely  
13          payments from the escrow account for such insur-  
14          ance premiums results in a lapse in such insurance  
15          coverage for any period of time, the Secretary shall  
16          assess against the servicer a civil penalty of \$1,000  
17          for each full or partial day of such lapse.

18          “(2) USE OF AMOUNTS.—The amounts col-  
19          lected by the Secretary from fines under this section  
20          shall be available to the Secretary, to the extent pro-  
21          vided in appropriation Acts, as follows:

22                 “(A) DOWNPAYMENT ASSISTANCE.—90  
23                 percent of any such amounts shall be available  
24                 only for the Secretary to carry out a program  
25                 to provide assistance to low-income families (as

1           such term is defined in section 3(b) of the  
2           United States Housing Act of 1937 (42 U.S.C.  
3           1437a(b)) for use as downpayments for the ac-  
4           quisition of principal residences.

5           “(B)    CONSUMER    ADVOCACY    ASSIST-  
6           ANCE.—10 percent of any such amounts shall  
7           be available only for the Secretary to provide  
8           assistance for nonprofit organizations that en-  
9           gage in legal advocacy activities relating to pro-  
10          tection of consumer rights, which shall be se-  
11          lected by the Secretary in consultation with the  
12          Attorney General.”.

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